

## Department of Justice

## § 48.6

an allocation of revenues, expenses, assets or liabilities between the newspaper and any parent, subsidiary, division or affiliate, the financial statements shall be accompanied by a full explanation of the method by which each such amount has been allocated.

(5) If any of the newspapers involved purchased or sold goods or services from or to any parent, subsidiary, division or affiliate at any time during the five years preceding the date of application, a statement shall be submitted identifying such products or services, the entity from which they were purchased or to which they were sold, and the amount paid for each product or service during each of the five years.

(6) Any other information which the applicants believe relevant to their request for approval.

(c) A copy of the application and supporting data shall be open to public inspection during normal business hours at the main office of each of the newspapers involved in the arrangement, except to the extent permitted by nondisclosure orders under § 48.5; except that materials for which nondisclosure has been requested under § 48.5 need not be made available for inspection before the request has been decided.

### **§ 48.5 Requests that information not be made public.**

(a) Any applicant may file a request that commercial or financial data required to be filed and made public under these regulations, which is privileged and confidential within the meaning of 5 U.S.C. 552(b), be withheld from public disclosure. Each such request shall be accompanied by a statement of the reasons why nondisclosure is required. The request shall be determined by the Attorney General who shall consider the extent to which (1) disclosure may cause substantial harm to the applicant submitting the information, and (2) nondisclosure may impair the ability of persons who may be adversely affected by the proposed arrangement to present their views in proceedings under these regulations. Information relevant to the financial conditions of the newspaper or newspapers represented to be failing ordinarily shall not be ordered withheld from public disclosure.

(b) Upon ordering that any documents be withheld from public disclosure, the Attorney General shall file a statement setting forth the subject matter of the documents withheld. Any person desiring to inspect the documents may file a request for inspection, identifying with as much particularity as possible the materials to be inspected and setting forth the reasons for inspection and the facts in support thereof. The request for disclosure shall be considered by the Attorney General, who shall give the applicant that submitted the documents an opportunity to be heard in opposition to disclosure. Orders granting inspection shall specify the terms and conditions thereof, including restrictions on disclosure to third parties.

(c) Documents ordered withheld from public disclosure shall be made available to the Assistant Attorney General in charge of the Antitrust Division. If a hearing is held, the documents may be offered as evidence by any party to whom they have been disclosed. The administrative law judge may restrict further disclosure as he deems appropriate, taking into account the considerations set forth in paragraph (a) of this section.

(d) Requests for access to materials within the scope of this section that may be filed after the conclusion of proceedings under these regulations shall be processed in accordance with the Department's regulations under 5 U.S.C. 552 (part 16 of this chapter).

### **§ 48.6 Public notice.**

(a) Upon the filing of the documents required by § 48.4, the applicants shall file, and publish on the front pages of each of the newspapers for which application is made, daily and Sunday (if a Sunday edition is published) for a period of one week:

(1) Notice that a request for approval of a joint newspaper operating arrangement has been filed with the Attorney General;

(2) Notice that copies of the proposed arrangement, as well as all other documents submitted pursuant to § 48.4, are available for public inspection at the Department of Justice and at the main offices of the newspapers involved; and

## **§ 48.7**

(3) Notice that any person may file written comments or a request for a hearing with the Department of Justice, in accordance with the requirements of § 48.3.

(b) Upon the filing of the notice required in paragraph (a) of this section, the Assistant Attorney General for Administration shall cause notice to be published in the FEDERAL REGISTER, and shall cause to be issued a press release setting forth the information contained therein.

(c) If a hearing is scheduled pursuant to § 48.10, the applicants shall publish the time, date, place and purpose of such hearing on their respective front pages at least three times within the 2-week period after the hearing has been scheduled (two times if the applicants are weekly newspapers), and for the 3 days preceding such hearing (one day during the week preceding the hearing if the applicants are weekly newspapers).

(d) The applicants shall file copies of each day's newspaper in which the notice required in paragraph (a) or (c) of this section has appeared.

## **§ 48.7 Report of the Assistant Attorney General in Charge of the Antitrust Division.**

(a) The Assistant Attorney General in charge of the Antitrust Division shall, not later than 30 days from the publication in the FEDERAL REGISTER of the notice required by § 48.6, submit to the Attorney General a report on any application filed pursuant to § 48.4. In preparing such report he may require submission by the applicants of any further information which may be relevant to a determination of whether approval of the proposed arrangement is warranted under the Act.

(b) In his report he may state (1) that the proposed arrangement should be approved or disapproved without a hearing; or (2) that a hearing should be held to resolve material issues of fact.

(c) The report shall be filed, and a copy shall be sent to the applicants. Upon the filing of the report, the Assistant Attorney General for Administration shall cause to be issued a press release setting forth the substance thereof.

## **28 CFR Ch. I (7-1-11 Edition)**

(d) Any person may, within 30 days after filing of the report, file a reply to the report for the consideration of the Attorney General.

## **§ 48.8 Written comments and requests for a hearing.**

(a) Any person who believes that the Attorney General should or should not approve a proposed arrangement, may at any time after filing of the application until 30 days after publication in the FEDERAL REGISTER of the notice required in § 48.6,

(1) File written comments stating the reasons why approval should or should not be granted, and/or

(2) File a request that a hearing be held on the application. A request for a hearing shall set forth the issues of fact to be determined and the reasons that a hearing is required to determine them.

(b) Any person may within 30 days after the filing of any comment or request pursuant to paragraph (a) of this section, file a reply for the consideration of the Attorney General.

(c) After the expiration of the time for filing of replies in accordance with § 48.7 and this section the Attorney General shall either approve or deny approval of the arrangement, in accordance with § 48.14, or shall order that a hearing be held.

## **§ 48.9 Extensions of time.**

Any of the time periods established by these Regulations may be extended for good cause, upon timely application to the Attorney General, or to the administrative law judge if one has been appointed.

## **§ 48.10 Hearings.**

(a) Upon the issuance by the Attorney General of an order for a hearing, the Assistant Attorney General for Administration shall appoint an administrative law judge in accordance with section 11 of the Administrative Procedure Act, 5 U.S.C. 3105. The administrative law judge shall:

(1) Set a date, time and place for the hearing convenient for all parties involved. The date set shall be as soon as practicable, allowing time for publication of the notice required in § 48.6 and for a reasonable period of discovery as